



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 01/16/01

AGENDA ITEM 6

WORK SESSION ITEM

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Appeal by Anthony Varni, Representing ConAgra Company (Owners), of Planning Commission Approval of Historic Site Designation No. 13 – Hunt Foods Water Tower – The Property Is Located at 199 “C” Street, and Approximately 1400 Feet South of the Intersection with Burbank Street, in an “I” (Industrial) District

RECOMMENDATION:

It is recommended that the City Council find that the project is categorically exempt from CEQA and deny the appeal, upholding the Planning Commission action to designate the Hunt Foods Water Tower as an historic structure subject to the attached findings.

DISCUSSION:

The Planning Commission, at its meeting of November 16, 2000, designated the Hunt Foods Water Tower as an “Historic Structure” (5-1 vote) pursuant to Chapter 10, Article 11, Historic Preservation Ordinance, of the Hayward Municipal Code; this action would place the structure on the City’s *List of Historically and Architecturally Significant Buildings*. Anthony Varni, representing ConAgra, the owner, has appealed the action.

The Hunt Foods water tower has served as a symbol for both “The Pickle Works” and Hunt Foods, both mainstays of the City’s economy, for many years. The tower has become a landmark for the City as a whole, being visible from many vantage points in and around the central portion of Hayward. Designation of the tower as an historic structure would formalize the City’s intent to maintain this structure as a landmark and require the impending land use decisions in the Cannery area to recognize its long-term preservation.

The City’s Historic Preservation Ordinance sets criteria for the designation of historic structures, sites or districts. Historic structures must be 1) identified with the lives of historic people or important events; or 2) particularly representative of an important architectural style or way of life; or 3) an example of a type of building which was once common, but is now rare; or 4) connected with a business or use which was once common, but is now rare; or 5) demonstrative of outstanding attention to architectural design, detail, materials or craftsmanship. Staff believes that the water tower meets the criteria for designation as an historic structure as it is a part of the City’s past connection to the local agricultural industry and especially to Hunt Foods, which was

a dominant business and social entity in Hayward. The water tower is also an example of a prominent structure once commonly used by this industry.

The owner of a designated historic structure is required to maintain the structure in good condition as stated within the Historic Preservation Ordinance. The owner also may not alter an historic structure such that the historic character of the structure is compromised. The City may also stay any demolition request in order to evaluate the historic designation in light of a proposed use.

Staff received two letters in support of the designation, including one from the Hayward Area Historical Society. During the Planning Commission hearing, Jim Kramm, representing ConAgra, stated that the owner is opposed to the designation; there was no other public comment.

Appeal:

The appellant stated in his letter of December 29, 2000 (see Exhibit C), that:

- the owner questions whether the water tower can meet the criteria for designation;
- the designation impairs the development flexibility of the site;
- the Historic Preservation Ordinance is inapplicable to this property because of potential public acquisition; and
- the City cannot require the placement of its logo on the tower.

The issues relating to meeting the designation criteria are addressed above. As stated earlier, designation of the tower would formalize the City's intent to maintain this structure as a landmark and alerts future owners/developers that the tower is an important feature that must be addressed in any plans. Rather than be faced with an impairment, future development can be planned for, and marketed and identified by, the presence of this landmark historic structure. The preferred alternative for the Cannery Area Design Concept, as endorsed by the City Council on December 12, 2000, envisions retention of the tower.

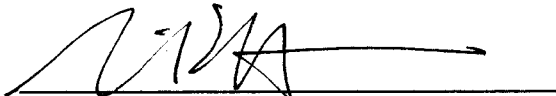
The property is not proposed for acquisition by a public agency at this time; such acquisition would, as the appellant states, make the provisions of the Historic Preservation Ordinance inapplicable. There also has been some discussion regarding the possibility of placing the City's logo on the tower; however, designation as an historic structure would not require such of the property owner. The City would work in cooperation with the property owner should this concept be considered further.

The appellant later, in his letter of January 11, 2001, requested that the City Council not take action on this matter until the Cannery Area Design Concept is approved at the end of April or early May. He stated that the property owner, in the meantime, would agree to not compromise the tower. Although this is an option, staff would note that designating the tower is independent of, and has never been tied to, the Cannery Area plan; the initiation of the historic designation preceded the plan process.

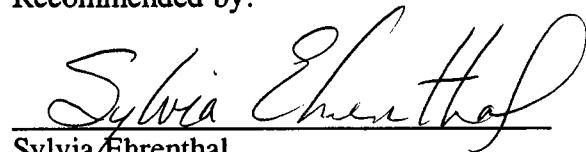
Conclusion:

The Planning Commission found that the Hunt Foods water tower is an historic structure because it is a part of the City's past connection to the agricultural industry and to Hunt Foods, and it is an example of a prominent structure once used by this industry (see the Planning Commission agenda report, dated November 16, 2000, for a history of Hunt Foods in Hayward). Further, the water tower is, and can continue to be, a landmark for the City of Hayward.

Prepared by:


Richard E. Patenaude, AICP
Acting Principal Planner

Recommended by:


Sylvia Ehrenthal
Director of Community and Economic Development

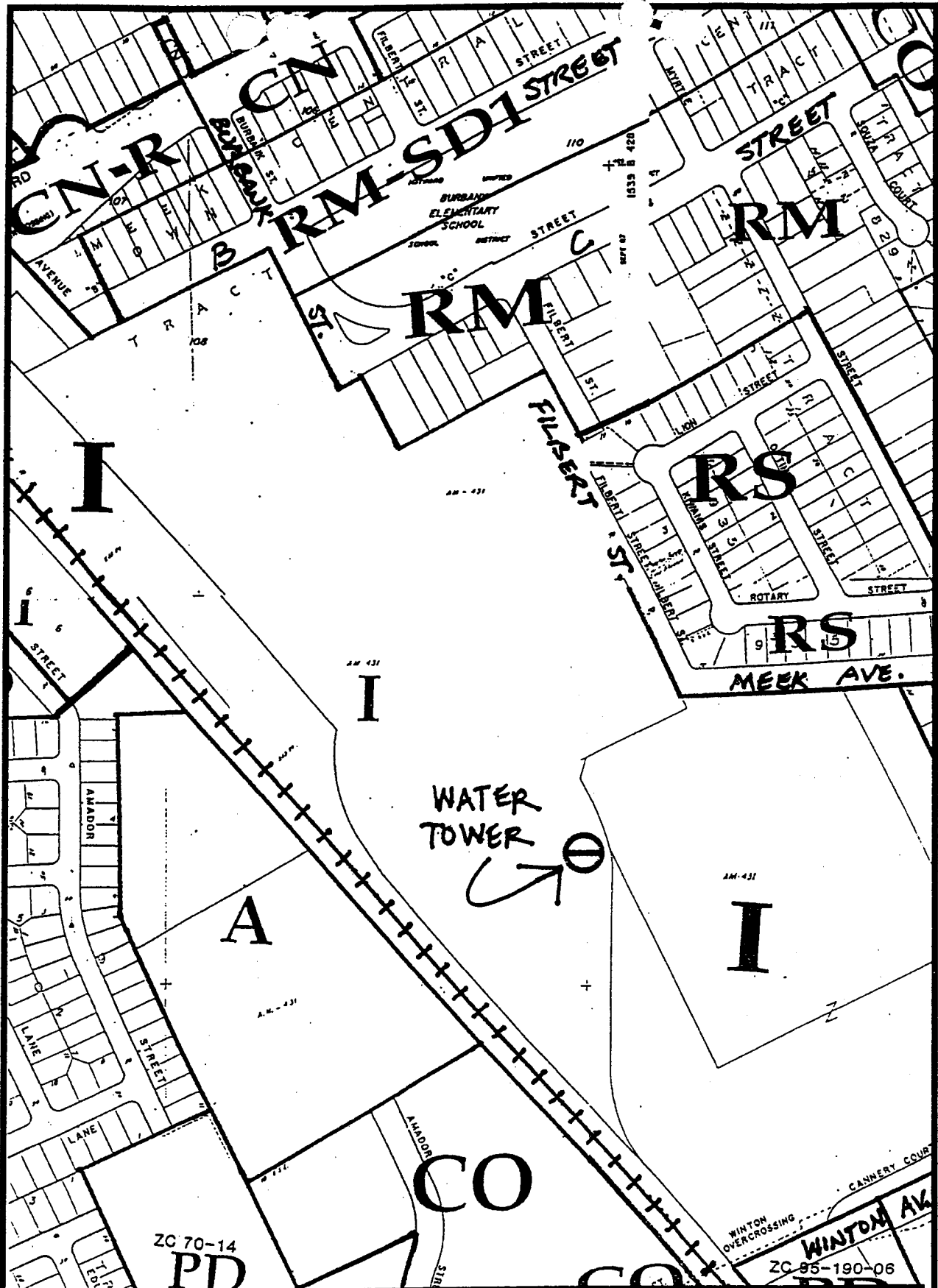
Approved by:


Jesús Armas, City Manager

Attachments:

- Exhibit A - Area/Zoning Map
- Exhibit B - Findings for Approval
- Exhibit C - Letters of Appeal, dated Nov. 27 & Dec. 29, 2000, and Jan. 11, 2001
- Exhibit D - Draft Planning Commission Meeting Minutes and Agenda Report dated
Nov. 16, 2000
- Draft Resolution

01.02.01



Area & Zoning Map
 Historic Site Designation No. 13
 199 C Street
 Applicant: City of Hayward
 Owner: ConAgra

**FINDINGS FOR APPROVAL
HISTORIC SITE DESIGNATION NO. 13
CITY OF HAYWARD (APPLICANT) /
CON AGRA COMPANY (OWNER)
REQUEST FOR DESIGNATION OF THE HUNT FOODS WATER TOWER AS AN
HISTORIC STRUCTURE
199 "C" STREET**

1. This project is categorically exempt from CEQA in that it is an action to maintain the environment and does not include construction (Section 15308 of the CEQA Guidelines).
2. The protection, enhancement, perpetuation and use of structures of historical significance located within the City of Hayward are of cultural and aesthetic benefit to the community. The Hunt Foods Water Tower provides landmark identification to the Cannery neighborhood as well as to the City as a whole.
3. The economic, cultural and aesthetic standing of the City will be enhanced by respecting the heritage of the City.
4. The structure is connected with a business, which was once a signature of the City of Hayward but has ceased to operate at its current location because of the changes to the metropolitan region and the attendant market factors. The Hunt Brothers Cannery opened in Hayward in 1898 due to the surrounding fruit orchards and agricultural fields. The plant began closing down in 1978 after the fruit orchards had been replaced with homes. Hunt Foods played an important economic and social role in the City during this time.

EXHIBIT C

NOV 27 AM 10:20 CLK

VARNI, FRASER, HARTWELL & RODGERS

ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

22771 MAIN STREET

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November 27, 2000

VIA FACSIMILE AND U.S. MAIL

Members of the City Council
City of Hayward
777 "B" Street
Hayward, CA 94541

Gentlemen and Ladies:

Re: Proposed Historic Site Designation No. 13 - ConAgra (Owner)

We represent ConAgra, the owner of property located at 199 "C" Street in Hayward on which the former Hunt Foods Water Tower is located. This site is located approximately 1400 feet south of the intersection with Burbank Street in an area currently zoned for Industrial use. This letter will serve to appeal the decision of the City of Hayward Planning Commission on November 16, 2000, to designate such water tower as Historic Site Designation No. 13 in the City of Hayward.

Very truly yours,

VARNI, FRASER, HARTWELL & RODGERS


Anthony B. Varni

ABV/cb/14
hayward city council.ltr

cc: Patrick McGill, Esq.

cc: Mayor, City Council,
City Manager, and
Dept. Diana Anderly
Fwd: Richard Patenaville
11/27/00 ml



ConAgra, Inc.
One ConAgra Drive
Omaha, NE 68102-5001
Phone: (402) 595-5232
E-mail: jim.doyle@conagra.com

James G. Doyle
Director
Corporate Real Estate & Facilities

November 13, 2000

VIA FEDERAL EXPRESS

&

TELECOPY (510) 583-3649

City of Hayward

Planning Commission

777 B Street

Hayward, CA 94541-5007

RE: ConAgra Grocery Products Company (f/k/a Hunt Wesson)
Water Tower at 199 C Street, Hayward, CA

Attn: Commission Chair
Dear Sir/Madam:

We have received the notice from the City Planning staff of the proposal to designate the water tower on our property as an historic structure. We would like to go on record as being adamantly opposed to any such action on your part to designate the water tower or any other improvements on our property as an historic structure on the grounds that such action is unjustified and unwarranted.

The structure does not in our opinion meet the criteria in your ordinance for an historic structure. Additionally, ConAgra currently has no plans to modify the water tower structure in any way, so there is no need for the City to take any action to "preserve" the water tower.

We are informed that the planning staff feels the water tower should be designated as historic so that it can be incorporated in a master plan the staff is working on for land in this area. We suggest that the proposed historic designation on our water tower at this time is premature inasmuch as their master plan is far from complete and, obviously, has not been acted upon by the Planning Commission or the City Council. Your action at this time would only burden our property for purely speculative reasons to the substantial detriment of ConAgra and is of questionable benefit to the City. This, in turn, can impair the value of the ConAgra property.

For these and other reasons too numerous to mention here, we respectfully request that the proposal to designate our water tower as an historic structure be rejected.

Very truly yours,

James G. Doyle

C-2

Feeding People Better

Diana
mtg 9:00 am
1/5

TO [Signature] from Maureen Conneely
Sylvia

VARNI, FRASER, HARTWELL & RODGERS

ATTORNEYS AT LAW

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December 29, 2000

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VIA FAX AND MAIL

Michael O'Toole
City Attorney
City of Hayward
777 "B" Street, 4th Floor
Hayward, California 94541-5007

Re: **Proposed Historical Site Designation for the
Water Tank on the Former "B" Street Cannery Site**

Dear Michael:

We represent ConAgra the owners of a significant portion of the former Hunts Cannery "B" Street site. The City Planning Commission recently recommended a Historical Site designation for the old water tank which is situated on the ConAgra portion of the property. For a number of years, the water tank served as a fire protection system for the cannery site. On behalf of our client, we have appealed the decision of the Planning Commission. We are at this time waiting for a hearing date before the City Council.

The property in question is in the Downtown Redevelopment District. The water tank is not an Architecturally Significant Building as that term is described in the Historic Preservation Ordinance of the City of Hayward. It is, rather, a Historic Site as such term is defined in the Historic Preservation Ordinance, if anything. At this moment, I am not aware if the water tank has been placed on the City's list of historically and architecturally significant buildings. I am also not aware if the water tank is within a Historic District. The City at this time is considering significant changes in this area of the town, in particular, the relocation of the Burbank Grammar School and the installation of certain public streets and other facilities which will ultimately result in a redevelopment of the present uses on the former Hunts "B" Street Cannery site. It is our understanding that the historic site designation was the idea of the Planning Staff. It is

also our understanding that the City at sometime would like to place the name and logo of the City on the water tank.

Having said all of the above, our thoughts and concerns are as follows:

1. We sincerely question whether or not the water tank, under these circumstances, can meet the criteria set forth in the Historic Preservation Ordinance for designation as a Historic Site. It clearly does not fall under the definition of an Architecturally Significant Building.
2. It could be seen by some that the designation of this water tank as a Historic Site, before completion of the Redevelopment Agency / City of Hayward zoning process, impairs the flexibility of the site when you consider its present configuration. The property is narrow in the vicinity of the water tank. This narrow area is only made more difficult to use when the tank is preserved and you must work around it.
3. There appears to be no question that the City cannot require the property owner to place the City name and City logo on the water tank once it has been given a Historic Site designation.
4. Due to the fact that the Redevelopment Agency has the power of eminent domain and the planning concepts which have now been approved on a preliminary basis could require an acquisition of some significant portion of the property owned by our client, we believe that Section 10-11.02 of the Historic Preservation Ordinance which reads in part

... nor shall this article apply to any property which is proposed for acquisition by a public agency. A property shall be deemed to be proposed for acquisition by a public agency if it has been identified on a preliminary right-of-way drawing for a street or highway project under active consideration by a public agency, is being actively considered for acquisition by a public agency, is the subject of a Resolution of Necessity or acquisition negotiations by a public agency.

prevents the City at this time from putting a Historic Site designation on this water tank. I am sure that, if the Redevelopment Agency or the Hayward Unified School District moves forward with its plans to acquire a portion of the "B" Street, site, the presence of a Historic Site on the remainder will be used by the appraisers of the condemning authority to reduce the value of the part taken

Michael O'Toole
City Attorney
December 29, 2000
Page 3

and/or to minimize the severance damages to the remainder by reason of the taking and the construction in the manner proposed.

To avoid what we would see as an unnecessary delay and/or disruption in the relationship between our client and the City, we would like to suggest that any action with regard to the Historical Designation be deferred until such time as the planning process has been completed. We would be willing to execute such documents as might be necessary to hold open any applicable time periods with regard to our appeal. We understand the Ordinance requires a hearing before the City Council within forty-five days. We know of no reason why this time period could not be extended by agreement.

We will await your thoughts.

Very truly yours,

VARNI, FRASER, HARTWELL & RODGERS



ANTHONY B. VARNI

ABV/l
Hayward-City Attorney.Ltr

cc: Client

VARNI, FRASER, HARTWELL & RODGERS

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January 11, 2001

VIA FACSIMILE AND U.S. MAIL

Honorable Mayor Roberta Cooper
and City Council of the City of Hayward
777 "B" Street
Hayward, CA 94541-5007

Gentlemen and Ladies:

Re: Appeal of Planning Commission Approval of Historic Site Designation
No. 13 - Hunt Foods Water Tower / ConAgra Company (Owner)

We would suggest the following agreement subject to the approval of ConAgra:

1. That the hearing with regard to the appeal of the Planning Commission approval of Historic Site Designation No. 13 with regard to the Hunt Foods Water Tower be continued until such time as the Environmental Impact Report and the development process have been completed by the Planning Commission and the City Council of the City of Hayward.
2. That pending completion of the Environmental Impact Report and the approval of all needed planning concepts, ConAgra Company agrees not to remove or alter the water tank which is the subject of Historic Site Designation No. 13 without first obtaining the approval of the City of Hayward City Council and/or giving the Hayward City Council sixty (60) days to hold a public hearing with regard to the appeal of the Planning Commission approval of the Historic Site Designation No. 13 which is now set for hearing on January 16, 2001.
3. That ConAgra agrees to notify any prospective purchaser of the property on which the water tank is situated, that they have agreed to this continuance of the hearing with regard to the appeal of ConAgra and further agrees to allow the recordation of a notice in a form acceptable to the City of Hayward of the pending historical designation recommended by the Planning Commission.


Honorable Mayor Roberta Cooper
and City Council of the City of Hayward
Page 2
January 11, 2001

The above is a brief outline of the concept of an agreement. We fully understand that it will require formal documentation. We would ask that the hearing on the appeal be continued for a period of thirty (30) days so as to allow us an opportunity to document this understanding to the satisfaction of the City Attorney's office. We have simultaneously submitted this letter to ConAgra for their approval.

We will await your thoughts.

Very truly yours,

VARNI, FRASER, HARTWELL & RODGERS



Anthony B. Varni

ABV/ch/14
otoole.ltr

MINUTES**REGULAR MEETING OF THE PLANNING
COMMISSION, CITY OF HAYWARD, Council
Chambers****Thursday, November 16, 2000, 7:30 P.M.
777 "B" Street, Hayward, CA 94541**

-
2. **Historic Site Designation No. 13 – ConAgra (Owner):** Request by the Planning Director for designation of the Hunt Foods Water Tower as an Historic Structure – the Property is Located at 199 C Street, and Approximately 1400 Feet South of the Intersection with Burbank Street, in an Industrial (I) Zoning District

Acting Principal Planner Patenaude presented the application as a request to designate the tower as an Historic Structure. He showed slides of the tower and indicated how far away and from how many directions it can be seen. It is a symbol of the agricultural history of the area, as well as a reminder of Hunt Foods. This designation would help to maintain the tower. He added that the property owner disapproves of the proposal.

Commissioner Halliday asked why the brick building was not also included in the proposal.

Acting Principal Planner Patenaude suggested that this might also be considered by the Commission. The water tower is the most visible part of the area and the production that took place on the site.

Commissioner Williams asked why, when the whole of the Cannery area was under public review, would they designate only the water tower. Why not wait until after the Cannery Plan is presented.

Acting Principal Planner Patenaude said that in all of the alternatives for the area, the water tower is maintained. The brick building is not. This designation would cement the City's intention of a remembrance of the Hunt's Cannery.

Commissioner Williams asked whether the owners would lose control of the tower. He was told they would not, except for being required to preserve it.

Planning Manager Anderly added that, with this designation, even if the Cannery Plan is adopted, the owners would not be allowed to take the structure down.

Commissioner Bogue asked whether the owner is required to maintain the structure or whether, currently, they could demolish it.

He was told that any demolition would require the City to issue a demolition permit.

Planning Manager Anderly added that demolition would have to take into account the historical significance of the structure, particularly if it were designated as such at this meeting, as well as the Environmental Quality Act.

Chairperson Caveglia commented about the timing, adding that this is a very visible structure

to save.

The Public Hearing Opened at 8:58 p.m.

Jim Kramm, Hunt Foods, P.O.Box 3457, said he was the person quoted in the report as saying the company did not care to participate at this time. He said ConAgra was now interested and feels the designation would be a huge liability that they do not want. If the proposed linear park were to be adopted and taken over by the Hayward Area Recreation Department, HARD would then have the liability of the tower. He suggested that without a major wall around the structure, they are asking for liability problems.

The Public Hearing Closed at 9:02 p.m.

Commissioner Halliday asked whether adding the City logo to the tower would be at the City's expense. She was told that, yes, but as of right now, the upkeep and liability of the tower would stay with the owner. Although the City might explore ways of helping with the up-keep if they put their identification on the tower.

Commissioner Zermeno asked whether the City was trying to take control of the tower. He was told that, in the long term, ownership would depend on the Cannery Plan.

Commissioner Zermeno moved, seconded by Commissioner Halliday, to approve the designation of the Hunt Foods Water Tower as an historic structure pursuant to Chapter 10, Article 11, Historic Preservation Ordinance, of the Hayward Municipal Code, subject to the findings of approval, and to find that this project is categorically exempt from CEQA.

Commissioner Sacks commented about the number of water towers in the midwest from which many cities take their identity. She added that in many communities the owners take pride in the historical significance of their property and maintain them accordingly.

Commissioner Williams asked, again, about the liability. He was told that it was still owned by ConAgra, who will be responsible for it.

Commissioner Williams then commented that with the Cannery Plan under consideration at this point, it seems too early to take this step. He would not agree with this motion at this time.

Commissioner Halliday added that she did not realize the historic significance to the tower until she read the staff report. She said the City needs this step in order to save this structure.

Commissioner Zermeno said it is time to start working with the historical culture in the area.

Commissioner Bogue expressed concern about the maintenance of the tower.

The motion passed 5:1, with Commissioner Williams voting, "No."

Chairperson Caveglia reminded the petitioner that they have 10-days in which to appeal the decision.



CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 11/16/00

Agenda Item 2

TO: Planning Commission

FROM: Richard E. Patenaude, Acting Principal Planner

SUBJECT: Historic Site Designation No. 13 - Hunt Foods Water Tower - ConAgra Company (Owners) - Request by the Planning Director for Designation of the Hunt Foods Water Tower as an Historic Structure - *The property is located at 199 C Street, and approximately 1400 feet south of the intersection with Burbank Street, in an "I" (Industrial) District*

RECOMMENDATION:

Staff recommends that the Planning Commission 1) approve the designation of the Hunt Foods Water Tower as an historic structure pursuant to Chapter 10, Article 11, Historic Preservation Ordinance, of the Hayward Municipal Code, subject to the attached findings of approval; and 2) find that this project is categorically exempt from CEQA.

BACKGROUND:

The Hunt Foods Water Tower has served as a symbol for both "The Pickle Works" and Hunt Foods, both mainstays of the City's economy, for many years. According to aerial photography and personal interviews, the Tower was moved from "The Pickle Works," north of A Street, to its current location sometime during the latter portion of the 1950s. The Tower has become a landmark for the City as a whole, being visible from many vantage points in and around the central portion of Hayward. Designation of the Tower as an historic structure would formalize the City's intent to maintain this structure as a landmark regardless of the impending land use changes in the Cannery area. The City is pursuing authority from the property owners to have the City logo painted on the Tower.

The City's Historic Preservation Ordinance sets criteria for the designation of historic structures, sites or districts. Historic structures, such as the Water Tower, must be 1) identified with the lives of historic people or important events; or 2) particularly representative of an important architectural style or way of life; or 3) an example of a type of building which was once common, but is now rare; or 4) connected with a business or use which was once common, but is now rare; or 5) demonstrative of outstanding attention to architectural design,

detail, materials or craftsmanship. Staff believes that the Water Tower is a reminder of the City's past connection to the agricultural industry and to Hunt Foods, which was a dominant business and social entity in Hayward, and is an example of a structure once used by industry.

The owner of a designated historic structure accepts certain restrictions stated within the Historic Preservation Ordinance, including maintenance of the structure. The City may also stay any demolition request in order to evaluate the historic designation in light of a proposed use.

History

In 1859, 8 years after William Hayward set up his general store at the corner of A & Main Streets, "The Pickle Works" was started. By 1930, the brand name was changed to California Home Brand and it found expanded business in pickles, catsup, tomato juice and various condiments.

Joseph & William Hunt opened their original cannery at A & Santa Clara Streets in 1898 when they moved their canning operation from Santa Rosa to Hayward because this area had hundreds of fruit orchards and agricultural fields. In 1900, the cannery expanded with a new can factory. The number of employees increased to 700 per year. But, in April 1901, the cannery burned to the ground.

Niles and other communities invited the cannery to rebuild in their towns. However, the Hayward Board of Trade, convinced Hunt to stay in Hayward. Despite being in total ruins two months prior to the canning season, the cannery was able to process all the fruit it could get during the season. The end of 1901 found Hunts can-making plant back in full operation.

In 1943, Hunt's merged with Val Vita Food products of Fullerton. In 1943, the total pack was 2 million cases, valued at \$10 million. For years, Hunt's Hayward and California Home Brand faced each other from opposite sides of "A" Street, but in 1945, the "Pickle Works" merged with Hunt. The company began to concentrate on its own brand and its new slogan: "Hunt - for the best."

In 1954, the pack was 15 million cases, valued at \$70 million. The company now owned 6 canneries on the Pacific Coast, and one each in Ohio, New Jersey and New York. Hunt's ranked 1st in the United States in sales of tomato sauce, 2nd as a packer of yellow cling peaches, and 3rd as a packer of tomato catsup. At this time, 50 percent of the total pack of Hunt Foods was in Hayward.

By 1961, the Hayward plant was not only the largest member of Hunt's food manufacturing family, but was the largest fruit and vegetable canning facility in the world - capable of handling 12 million pounds of tomatoes a day by nearly 5,000 employees. Hunt Foods grew to 140th from the top of the nation's 500 leading industries by 1963.

At its peak, Hunt Foods consisted of an industrial complex of 90 acres that stretched for a 1½ miles along the Southern Pacific Railroad. The plant buildings occupied more than 1¾ million square feet of space, equal to 50 football fields. Taxes on this property in 1963 made up more than one-sixth of Hayward's total property tax income.

Hunt eventually merged with the Wesson packing company, and the plant began closing down in 1978 after the fruit orchards had been replaced with homes and the tomato processing operations were moved closer to the source in Oakdale. The United Can plant remained in Hayward, employing 200 full-time and 1,300 seasonal workers. Other portions of the Hunt plant were transformed into warehouse space, Cannery Park, and the Price-Costco store. United Can announced its closing in May 1996, allowing Hunt Foods to build a container plant in Tennessee.

ENVIRONMENTAL REVIEW:

This project is categorically exempt from CEQA in that it is an action to maintain the environment and does not include construction (Section 15308 of the CEQA Guidelines).

PUBLIC REVIEW AND PUBLIC NOTICE:

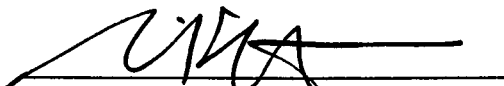
Staff contacted the local operations manager of Hunt Foods Company regarding this action and requested owner participation in the process. The operations manager indicated that Hunt Foods does not care to participate at this time, as its interest in the property will ultimately be ending.

On November 6, 2000, a public hearing notice was mailed to the surrounding property owners and residents and to interested parties. In addition, a public hearing notice was published in *The Daily Review*.

CONCLUSION:

Staff recommends designation of the Hunt Foods Water Tower as an historic structure because it is a reminder of the City's past connection to the agricultural industry and to Hunt Foods, and it is an example of a structure once used by industry. The Water Tower is, and will continue to be, a landmark for the City of Hayward.

Prepared by:



Richard E. Patenaude, AICP
Acting Principal Planner

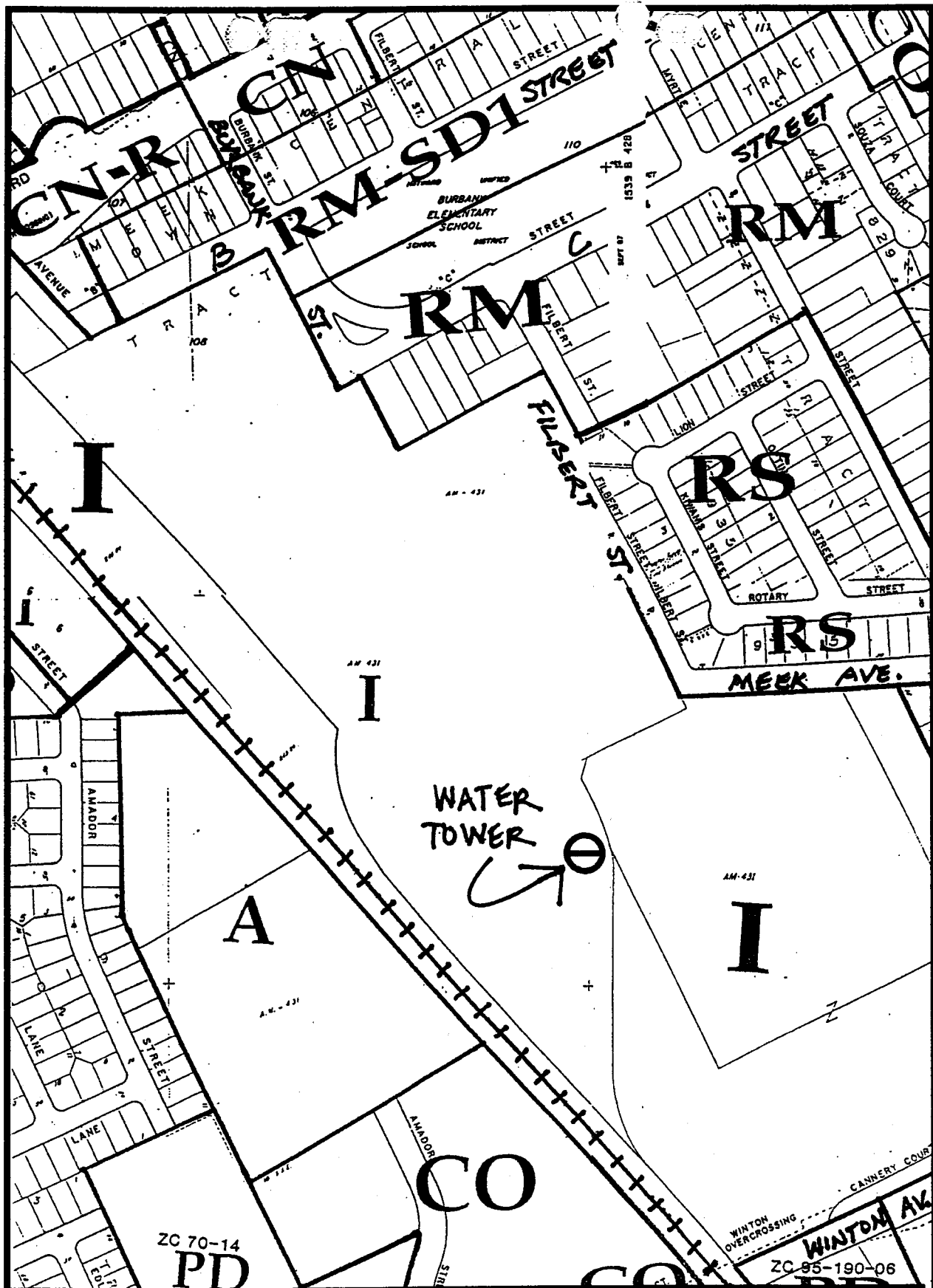
Recommended by:



Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area/Location Map
- B. Findings for Approval
- C. Letter from Hayward Area Historical Society
Historic Preservation Ordinance



Area & Zoning Map
 Historic Site Designation No. 13
 199 C Street
 Applicant: City of Hayward
 Owner: ConAgra

**FINDINGS FOR APPROVAL
HISTORIC SITE DESIGNATION NO. 13
CITY OF HAYWARD (APPLICANT) /
LIBITZKY HOLDINGS & CONTRA COSTA INDUSTRIES (OWNER)
REQUEST FOR DESIGNATION OF THE HUNT FOODS WATER TOWER AS AN
HISTORIC STRUCTURE
199 "C" STREET**

1. This project is categorically exempt from CEQA in that it is an action to maintain the environment and does not include construction (Section 15308 of the CEQA Guidelines).
2. The protection, enhancement, perpetuation and use of structures of historical significance located within the City of Hayward are of cultural and aesthetic benefit to the community. The Hunt Foods Water Tower provides landmark identification to the Cannery neighborhood as well as to the City as a whole.
3. The economic, cultural and aesthetic standing of the City will be enhanced by respecting the heritage of the City.
4. The structure is connected with a business, which was once a signature of the City of Hayward but has ceased to operate at its current location because of the changes to the metropolitan region and the attendant market factors. The Hunt Brothers Cannery opened in Hayward in 1898 due to the surrounding fruit orchards and agricultural fields. The plant began closing down in 1978 after the fruit orchards had been replaced with homes. Hunt Foods played an important economic and social role in the City during this time.

HAYWARD AREA HISTORICAL SOCIETY

22701 MAIN STREET, HAYWARD, CA 94541 • (510) 581-0223

November 8, 2000

Richard Patenaude
Acting Principal Planner
City of Hayward
Planning Division
777 B Street
Hayward, CA 94541

Dear Richard,

Thank you for the notice of the public hearing concerning the designation of the Hunt's Food Water Tower as an Historic Structure. Unfortunately, I will be out of town at the time of the Planning Commission meeting scheduled for Thursday, November 16. I would, however, like to add our wholehearted support for this designation.

As you know, the Hunt's Cannery has played an integral part in the industrial development of the Hayward area. Hunt's was California's first and best-equipped company for the canning of fruits and vegetables. The Hunt Brothers started the company in 1896. It was superbly located in Hayward in the heart of the fruit belt. The plant covered more than 3 acres and employed over 1,000 workers. The company erected over 150 cottages for the employees and opened a recreation day care center for the children of the employees. It was one of the major employers in the area. Today, there are still countless hundreds of people who have connections to the Cannery. The tower serves as an icon for the Cannery and its impact on the Hayward area.

The Hayward Area Historical Society strongly supports this designation and hopes that it will spur other designations and historic preservation efforts in the Cannery area. This could once again be a vibrant and active neighborhood in the downtown area.

Sincerely,



Jim DeMersman
Executive Director

ARTICLE 11

HISTORIC PRESERVATION ORDINANCE

(Added by Ord. 89-011 C.S., adopted March 7, 1989)

SEC. 10-11.00 FINDINGS AND PURPOSE. It is found that the protection, enhancement, perpetuation, and use of structures and districts of historical and architectural significance located within the City of Hayward are of cultural and aesthetic benefit to the community. It is further found that the economic, cultural, and aesthetic standing of the City will be enhanced by respecting the heritage of the City. Therefore, the purposes of this article are to:

- (a) Designate, preserve, protect, enhance, and perpetuate those historic structures, districts, and neighborhoods which contribute to the cultural and aesthetic heritage of Hayward;
- (b) Foster civic pride in the beauty and accomplishments of the past;
- (c) Stabilize and improve the economic value of certain historic structures, districts, and neighborhoods;
- (d) Develop and maintain appropriate settings for such structures; and
- (e) Enhance the visual and aesthetic character, diversity, and interest of the City.

SEC. 10-11.01 DEFINITIONS. Throughout this article the following definitions shall apply:

- (a) 'Historic district' means a geographically defined area which has been designated as possessing a significant concentration or number of buildings unified by past events, or aesthetically by plan or physical development. The collective value of buildings and landscape in an historic district taken together may be greater than the value of each individual element. Each building or site within an historic district is categorized as significant for the purpose of this article except the provisions for retaining major interior architectural features and for making penalties available for a failure to maintain buildings shall apply only to buildings on the City's List of Historically or Architecturally Significant Buildings. A building or site located within an historic district shall not be added to the List of Historically or Architecturally Significant Buildings unless such building has been specifically designated as an historic structure or site.
- (b) 'Historic site' is a property which has been designated as a site closely identified with an historic person's life, community, or historic event.

(c) 'Historic structure' means any building within the City which has been identified as having historic or architectural significance and has been placed on the City's List of Historically and Architecturally Significant Buildings.

(d) 'Significant Structure' refers to both an historic structure which has been placed on the City's List of Historically and Architecturally Significant Buildings and a structure located within an historic site or an historic district, unless the context specifically indicates otherwise.

SEC. 10-11.02 INAPPLICABILITY OF ARTICLE TO CERTAIN PROPERTIES. The provisions of this article shall not be applicable to any property owned by a public agency or dedicated to a public use, nor shall this article apply to any property which is proposed for acquisition by a public agency. A property shall be deemed to be proposed for acquisition by a public agency if it has been identified on a preliminary right-of-way drawing for a street or highway project under active consideration by a public agency, is being actively considered for acquisition by a public agency, is the subject of a Resolution of Necessity or acquisition negotiations by a public agency.

SEC. 10-11.03 PROCEDURE FOR DESIGNATION OF HISTORIC STRUCTURES, SITES, OR DISTRICTS.

(a) Initiation of designation may be proposed by the Hayward Area Historical Society, the Planning Commission, the City Council, the owner of the property, the Director of Community and Economic Development/Planning Director, or by application of at least fifty residents of the City.
(Amended by Ord. 95-01, adopted January 10, 1995)

(b) Proposals for designation shall be filed with the Development Review Services Division and shall include the following data:
(Amended by Ord. 95-01, adopted January 10, 1995)

- (1) The address and assessor's parcel number of the site or boundaries of the proposed district;
- (2) A description detailing the structure, site, or district's special aesthetic, cultural, architectural, or engineering interest or value of an historic nature;
- (3) A description of the historical value of the structure, site, or district;
- (4) Sketches, drawings, photographs, or other descriptive material; and

- (5) Other supporting information as required by the Director of Community and Economic Development/Planning Director.
(Amended by Ord. 95-01, adopted January 10, 1995)
- (c) Action on any pending development or demolition permit affecting a structure or site proposed for designation shall be automatically suspended by the Director of Community and Economic Development/Planning Director for a period of no more than sixty (60) days from the filing of the proposal for designation in order to provide for action on the designation proposal. This period of suspension shall expire automatically ten (10) days after the Planning Commission has acted on the designation application; provided, however, that this provision shall not operate to extend the sixty (60) day period of suspension.
(Amended by Ord. 95-01, adopted January 10, 1995)
- (d) Notice of the time, place, and purpose of the hearing shall be given at least ten (10) days prior to the date of the hearing by mail to the applicant, to the owner or owners of the property, to the owners of property within three hundred (300) feet of the site, to the Hayward Area Historical Society, and to all neighborhood associations in the area on file with the City.
- (e) The Planning Commission shall approve, disapprove, or modify the application for designation. The action of the Planning Commission may be appealed to the City Council by any interested person or review requested by a City Councilmember according to the provisions of Section 10-1.548 of the Municipal Code. The filing of an appeal shall automatically extend the stay on processing of a demolition or development permit application for a period of time which expires on the lesser of the following: Forty-five (45) days after the Planning Commission decision or the day after the City Council has concluded its appeal proceedings.
- (f) On appeal the City Council may approve, disapprove, or modify the designation and, in any case where an application for a development or demolition permit is pending concurrently with the proposal for designation, such decision shall be made within forty-five (45) days of Planning Commission action.
- (g) After approval of the designation of an historic structure, site, or district, the City Clerk shall send to the owners of the property so designated, by first class mail, a letter outlining the basis for such designation. Notice of this designation shall also be filed in the Building Department and the Development Review Services Division. Notice of an historic structure or site designation shall also be filed with the Alameda County Recorder.
(Amended by Ord. 95-01, adopted January 10, 1995)

SEC. 10-11.04 CRITERIA FOR DESIGNATION OF HISTORIC
STRUCTURES, SITES, OR DISTRICTS.

- (a) Historic Structures. The following shall be used as criteria for designating additional historic structures.
 - (1) The structure is identified with the lives of historic people or with important events in the City, state, or nation; or
 - (2) The structure is particularly representative of an architectural style or way of life important to the City, state, or nation; or
 - (3) The structure is an example of a type of building which was once common, but is now rare; or
 - (4) The structure is connected with a business or use which was once common, but is now rare; or
 - (5) The structure contains elements demonstrating outstanding attention to architectural design, detail, materials, or craftsmanship.
- (b) Historic Districts. A proposal for designation of an historic district may be approved only if the proposed district is found to contain a significant concentration or number of buildings or sites unified by either past events or aesthetically unified by plan or physical development.
- (c) Historic Sites. A proposal for designation of an historically significant site may be approved only if the site is found to be closely identified with the life of an historic person, community, or with an historic event in the City, state, or nation.

SEC. 10-11.05 ALTERATION OF SIGNIFICANT STRUCTURES OR SITES.

- (a) Review Process. All development permit applications affecting a significant structure or site shall be reviewed as follows:
 - (1) The Director of Community and Economic Development/Planning Director shall review and may approve additions or alterations which will not adversely affect the exterior architectural characteristics or the historical or aesthetic value of a significant structure or site or its site or surroundings in accordance with the procedures for approval of an administrative use permit.
(Amended by Ord. 95-01, adopted January 10, 1995)

- (2) The Planning Commission shall review all development permit applications for proposed alterations of a significant structure or site which may substantially affect its style, scale, or bulk as well as new construction in an historic district or on an historic site. The Planning Commission's decision shall become final ten days after the decision.
(Amended by Ord. 95-01, adopted January 10, 1995)
- (b) The Planning Commission shall consider the siting, landscaping, architectural style, design, materials, color, and any other pertinent factors, including but not limited to the following:
- (1) As to buildings on the City's List of Historically and Architecturally Significant Buildings and significant sites the proposed alterations should not adversely affect the exterior architectural characteristics nor the historical or aesthetic value of the building or the site. Major interior architectural features of such significant structures shall also be conserved.
 - (2) As to any significant structure in an historic district, the proposed alterations should not adversely affect the exterior architectural characteristics or the historical, architectural, or aesthetic value of the building and its site. Also, siting, landscaping, architecture, materials, and color shall be harmonious with historic elements of the surrounding neighborhood.
 - (3) All applications shall comply with applicable requirements of the zoning regulations.
 - (4) The proposed alteration shall also be consistent with the General Plan and other officially adopted City policies.
- (c) Any interested person may file an appeal to the City Council or any City Council member may request review of the Planning Commission's action within ten (10) days after the Planning Commission decision according to the procedures of Section 10-1.548 of the Hayward Municipal Code.

SEC. 10-11.06 DEMOLITION OF SIGNIFICANT STRUCTURES.

- (a) Applications for demolition of a significant structure shall include one (1) clear photograph of the front of the building and such other information as may be required by the City Building Official and the Director of Community and Economic Development/Planning Director.
(Amended by Ord. 95-01, adopted January 10, 1995)

- (b) Within sixty (60) days of receipt of a completed application, a hearing shall be scheduled on the demolition permit before the Planning Commission. The demolition permit shall be withheld for a period not to exceed one year unless the following finding is made:

The Planning Commission determines that demolition of the significant structure will not have a significant negative effect on the achievement of the purposes of this article given the character of the landscaping and architecture to be put in its place as evidenced by an approved plan for development of the site. Consideration shall be given to siting, scale, style, quality of materials, applicable Special Design ("SD") district criteria, if any, and the history of the existing significant structure.

- (c) Notwithstanding the requirements of this section, a demolition permit may be issued without the necessity for the Planning Commission's review if the City Building Official or the Fire Chief, after consultation with the Planning Director, determines that an imminent safety hazard exists and that demolition of the significant structure is necessary to secure the public safety.
- (d) The decision of the Planning Commission may be appealed to the City Council by any interested person by the filing of an appeal or a City Councilmember's filing of a request for review within ten (10) days of the Planning Commission's action according to the provisions of Section 10-1.548 of the Hayward Municipal Code.

SEC. 10-11.07 MAINTENANCE OF SIGNIFICANT STRUCTURES. The owner, lessee, or other person legally in possession of a significant structure shall comply with all applicable codes, laws, and regulations governing the maintenance of property.

SEC. 10-11.08 ENFORCEMENT AND REMEDIES.

- (a) Unlawful Alteration or Demolition of Significant Structures.
- (1) It shall be unlawful for a person or entity to demolish or cause to be demolished any significant structure or portion thereof in violation of any of the provisions of this article.
- (2) Any person or entity who demolishes a significant structure or causes a demolition in violation of the provisions of this article may be liable civilly in a sum equal to the replacement value of the building.

(3) The City Attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction, or replacement in kind of any significant structure or site demolished, altered, or partially demolished in violation of this article.

(b) Failure to Maintain an Historic Structure.

(1) It shall be unlawful for any person or entity to fail to maintain any historic structure.

(2) Any person or entity who fails to maintain any historic structure may be liable civilly in a sum not to exceed One Thousand Dollars (\$1,000) in addition to any other available civil and criminal remedy. Each day of violation constitutes a separate offense for which a penalty may be assessed.

(c) Remedies Not Exclusive. The remedies provided by this section are not exclusive.

DRAFT

4/11/01
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HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

**RESOLUTION DENYING APPEAL OF PLANNING
COMMISSION'S APPROVAL OF HISTORIC SITE
DESIGNATION NO. 13 - HUNT FOODS WATER TOWER -
CONAGRA COMPANY (OWNER)**

WHEREAS, the Planning Commission, at its meeting of November 16, 2000, designated the Hunt Foods Water Tower as an historic structure pursuant to Chapter 10, Article 11, Historic Preservation Ordinance, of the Hayward Municipal Code; and

WHEREAS, the matter was appealed to the City Council within the time and manner provided by law by Anthony B. Varni of Varni, Fraser, Hartwell & Rodgers, Attorneys at Law, for ConAgra Company (Owner); and

WHEREAS, the project is categorically exempt from environmental review under the California Environmental Quality Act; and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward finds and determines that:

1. The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15308, in that it is an action to maintain the environment and does not include construction.
2. The protection, enhancement, perpetuation and use of structures of historical significance located within the City of Hayward is of cultural and aesthetic benefit to the community. The Hunt Foods Water Tower provides landmark identification to the Cannery neighborhood as well as to the City as a whole.
3. The economic, cultural and aesthetic standing of the City will be enhanced by respecting the heritage of the City, a goal that is attained by protecting and perpetuating structures of historical significance to the City.
4. The Hunt Foods Water Tower was connected with the Hunt Brothers Cannery, a business that was once a signature of the City of Hayward but has ceased to operate at its current location because of the changes to the metropolitan region and the attendant market factors. The Hunt Brothers Cannery opened in Hayward in 1898 to process the crops from the surrounding fruit orchards and

agricultural fields. The Hunt Foods Water Tower served as a symbol for both the Hunt Brothers Cannery and "The Pickle Works," a competitive business that was founded in 1859 and ultimately merged with Hunt in 1945. Both businesses were mainstays of the City's economy for many years. At one time, Hunt Brothers Cannery consisted of an industrial complex of 90 acres that stretched for more than one mile along the Southern Pacific Railroad and was the largest fruit and vegetable canning facility in the world. The plant began closing down in 1978 after the local fruit orchards had been replaced with homes and the tomato processing operations moved closer to the source in Oakdale. A significant portion of the Hunt Brothers Cannery, including the Hunt Foods Water Tower was purchased by ConAgra. The Hunt Brothers played an important economic and social role in the City for more than 75 years.

BE IT FURTHER RESOLVED that, based on the foregoing findings, the City Council of the City of Hayward hereby denies the appeal of Planning Commission approval of Historic Site Designation No. 13 - Hunt Foods Water Tower.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward